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September 6, 2000

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Ex Parte: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98

Dear Ms. Salas,

On Wednesday, September 6, 2000, Augie Trinchese, Ed Shakin and the undersigned, representing Verizon Communications, met with Dorothy Attwood, Jared Carlson, Kathy Farroba, Jake Jennings, Chris Libertelli, John Reel and Glen Reynolds of the Common Carrier Bureau. We discussed issues raised in Verizon's Petitions for Reconsideration of the UNE Remand Order, as well as recent *ex parte* submissions, regarding the ILEC's obligation to provide unbundled local switching. The attached material was used in the discussions.

Pursuant to Section 1.1206(a)(1) of the Commission's rules, and original and one copy of this letter are being submitted to the Office of the Secretary. Please associate this notification with the record in the proceeding indicated above.

If you have any questions regarding this matter, please call me at (202) 463-5293.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Scott Randolph", written over a horizontal line.

W. Scott Randolph
Director - Regulatory Matters

cc: Dorothy Attwood
Jared Carlson
Kathy Farroba
Jake Jennings
Chris Libertelli
John Reel
Glenn Reynolds



The Commission Should Not Require ILECs To Unbundle Local Switching In Areas Served By Competitors Using Their Own Local Switching

- Competitors have already deployed their own switches and have demonstrated their ability to provide services without the ILECs' Switching UNE.
- Competitors have deployed over 300 switches in the original BA region alone.
- Competitors have also obtained 8300 NXX codes in the BA region and ported nearly 1.8 million numbers.
- The FCC's recent report on Local Competition demonstrates that competitors use their own facilities to provide 34% of the loops they serve.
- Competitors have obtained nearly 9000 collocation arrangements in the original BA region alone.
- Given the above, competitors have the ability to reach distant areas, so switching is competitively available anywhere.
- The Commission's finding that a subset of the market is not impaired regardless of competitive data does not square with the evidence on the record and is inconsistent with the Supreme Court mandate.
- No line limitation or EEL requirement should be applied.

Both The Access Zone 1 And The Top 50 MSA Restrictions Arbitrarily Exclude Significant Areas Of The Country Where Competitors Are Providing Service Using Their Own Local Switching

- First, access zones were not developed for the purpose of identifying areas where competing carriers are deploying switches.
 - Even competitors agree that the Zone limitation is inappropriate.
 - MCI WorldCom in its PFR @ page 20
 - PACE in its 7/12/00 Ex Parte
- Limiting the exception to only the top 50 MSA is overly restrictive and not consistent with the Commission's impairment analysis.
 - 350 rate centers outside the top 50 MSAs are served by at least one competitor switch
 - More than 350 rate centers are not located in an MSA but are served by at least one competitor's switch. Therefore, no reason to apply rationale to only top 50.

There Is No Rational Basis For A Rule Based On A Line Limitation

- Many commenters agree that the four-line cut-off is arbitrary
- In the largest states in Verizon, where CLECs have made significant competitive inroads, approximately 80% of the hot cuts are for customers with less than 3 lines.
- CLECs are provisioning services to DS0 as well as DS1 customers.
- CLECs have demonstrated their ability to provide service by deploying their own switches, capable of serving several potentially distant areas.
- CLECs have obtained NXX codes allowing them to provide service anywhere. MCI WorldCom itself demonstrates the point in its Ex Parte (July 20th, Portland, Maine example), that potentially a remote switch is capable of serving distant areas. The fact that MCI is only using it to serve some customers and not provide local service to all is irrelevant.
- Furthermore, since CLECs have obtained a significant number of collocation arrangements, they can use their investment in the switches to reach customers in many locations through the fairly ubiquitous collocations, already in place.
- The facts do not support a line limitation rule.

- In Any Event There Is No Basis For The Existing Line Limitation**
- Current Rules Exclude The Vast Majority Of Customers From UNE Switching Exception**
- For example in New York, the impact of line limitation rule is minimal

➤ Over 90% of our customers have a single line

➤ Over 95% of them have 2 lines or less

➤ Over 97% of them have 3 lines or less

- Therefore, less than 3% of our customers are potentially impacted by the current 4 line exclusion

Furthermore:

- In NY, there are 7 Million residence customers
- NY has approximately $\frac{3}{4}$ Million business customers
- Over 99% of the residence customers have less than 4 lines
- Over 75% of the business customers have less than 4 lines

There Is Certainly No Basis of Support To Increase The Number Of Lines For The Line Limitation Rule

- The studies presented by (PACE/Birch Telecom) presumed the results.
 - Analysis was based on a choice of a specific architecture/technology, i.e., DS1.
 - Analysis assumed only term contracts.
- The data on hot cuts shows that CLECs can and are provisioning to DS0 customers.
- PACE in its Ex Parte (May 19, 2000) misrepresents the cost of UNE-P.
 - Analysis compared a UNE-P rate (w/o a “manual intervention charge”) to a manual UNE loop plus port rate, which included a “manual intervention” charge.
 - The UNE-P should have been compared to a hot cut for a DS0 loop. For example, for New York, that comparison would be :
 - \$3.73 (UNE-P non-recurring charge) to \$23.97 (Hot Cut non-recurring)
 - The difference is small and if amortized over three years becomes insignificant.
- At a minimum the Birch Telecom study makes a case for excluding Centrex capabilities, in the event that the current line limitation rule is retained.

EELs Should Not Be A Prerequisite To Obtain Relief From Switch Unbundling

- First, the FCC's rationale for this condition, i.e., reduction of collocation costs, goes beyond the impairment test for the local switching UNE.
- Second, the Eighth Circuit Court on July 18, 2000 reaffirmed that ILECs are not required to combine elements that are not combined in the ILEC's network. To the extent FCC is requiring new combinations, it is a back door way to circumvent the Court's rule.
- Finally, requiring EELs is not a sound policy, because it will undermine the investment already made by competing carriers in their own networks.

In Summary:

- No local switching should be required where CLECs have deployed their own switches
- The Zone 1 limitation should be eliminated
- The switching limitation should be expanded to all rate centers where CLECs have NXXs
- EELs should not be a requirement for a UNE switching limitation
- If the Commission continues to apply a line limitation, the existing limitation as modified to exclude Centrex is appropriate.